

**IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY**

<b>Upon the Petition of</b>  <b>CAROLYN TURNIS n/k/a</b> <b>CAROLYN TRUMM,</b>  <b>Petitioner,</b>  <b>And Concerning</b>  <b>DAVID TURNIS,</b>  <b>Respondent.</b>	<b>Case No. 01311CDDM016781</b>  <b>DECREE OF DISSOLUTION</b> <b>OF MARRIAGE</b>
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This matter comes before the Court pursuant to a Petition for Dissolution of Marriage filed herein on October 13, 2021. Respondent was personally served and an answer was filed on his behalf on November 10, 2021. The Petitioner appeared personally with Attorney Sue Hess. The Respondent appeared personally with Attorney Rae Kinkead.

The mandatory 90-day waiting period has expired. It is appropriate for the Court to enter the following Findings of Fact, Conclusions of Law and Decree of Dissolution of Marriage.

**FINDINGS OF FACT**

The Petitioner is Carolyn Turnis, n/k/a Carolyn Trumm. She sought and was granted a Decree of Name Change<sup>1</sup> during the pendency of this action, henceforth the reference to her maiden name. She is presently living in Dubuque County, Iowa. She was born in 1996.

The Respondent is David Turnis. He is presently living in Dubuque County, Iowa. He was born in 1996.

The parties were married on November 3, 2018.

The parties do not have any children and the Petitioner is not presently pregnant.

The parties have been residents of the State of Iowa for at least the last year. The residency has not been maintained for the purpose of obtaining a dissolution of their marriage.

There has been a breakdown of the marital relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no likelihood that the marriage can be preserved. Conciliation has not been requested and cannot preserve the marriage.

The parties filed a pre-trial stipulation with the Court. They agree as to the distribution of assets and debts. They disagree on the equalization payment required to be paid to the Petitioner

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<sup>1</sup> Petition was filed on February 27, 2023, in Dubuque County case CNCV114444. Decree entered on March 30, 2023.

as a result of the division. The Respondent has been denied a loan by two banks to provide for an equalization payment. In rendering a decision on the equalization payment, the Court may need to modify their asset distribution.

Petitioner is a graduate of Iowa State University. She has a degree in Ag Business. During her time in college, she interned with banks and gained an interest in lending. She began working for Fidelity after graduation. In 2019, she was transferred to the Cascade office. She is writing mortgage and consumer lending loans. She has a benefit package that includes a retirement account, health, dental and vision insurance. Her income was \$44,202.00 in 2020, \$42,532.00 in 2021 and \$41,835.00 in 2022. Pursuant to a court order entered herein, she has been paid \$10,000.00 per month commencing February 1, 2023, as she had been off the farm for sometime and was no longer receiving any benefit from the farming operation. That will end as of September 1, 2023, when this decree is entered.

Respondent is a graduate of Iowa State University. He has a degree in science, with an emphasis in agricultural studies. Upon graduation, he purchased his family's farming operation and returned to the homestead. The farm has been in the Turnis family for over 90 years. This is the only home the Respondent has ever known, the only place the Respondent has known for employment, and the only employment he intends to have for the future. Respondent and his brother plant hay, corn and soybeans. Respondent raises cattle and his brother raises pigs. They own farm implements together and a farm account for operational expenses. Approximately \$117,000.00 of equipment was purchased during the marriage. Another approximately \$168,000.00 of equipment was a pre-marital gift from his family. A discussion of the farm income will follow.

Respondent purchased the property on contract for \$975,000.00 in 2018 from his parents and his aunt and uncle. The land contract was not an arm's length transaction. Sale prices on the two contracts would therefore not reflect what the actual market might realize for a sale to a true third party. There are two contracts. Contract one is recorded as Instrument No. 2018-00009428, and encompasses the following parcels:

- 2016300002: 2.23 acres with the homestead
- 2017400006: 0.72 acres for steel bin storage
- 2021100002: 39.53 acres with 9 out buildings including silos and sheds
- 2021100003: 40 acres
- 2021100005: 36.5 acres and
- 2021100006: 39 acres.

The contract is dated August 14, 2018. The seller is Turnis Farms Company and the buyer is David Turnis. As of the date of trial, the deed holder is Turnis Farms Company. The purchase price is \$531,000.00, with no down payment. Payments are to be made semi-annually in the amount of \$17,494.72 with compounding interest at the rate of 2.92%. The last payment is

contemplated to be March of 2038. There is a “clawback” provision in the contract that has a life span of 10 years. Within that time frame, if David Turnis as buyer, transfers all or any portion of the real estate, he is obligated to pay Turnis Family Farms all monies received in excess of the total payments made plus remaining principal balance due.

Contract two is recorded as Instrument No. 2018-00009423 and encompasses parcels:

2020200003: 3 acres

2020200006: 28.6 acres and

2020200007: 40 acres.

The contract is also dated August 14, 2018. The sellers are spouses Michael and Joan Turnis, and Wayne and Ann Turnis. The buyer is David Turnis. As of the date of trial, the deed holder is Turnis Farms Company. The purchase price is \$444,000.00, with a down payment of \$300,000.00. Payments are to be made semi-annually in the amount of \$4,744.33, with compounding interest at the rate of 2.92%. The last payment is contemplated to be March of 2038. This contract also contains a “clawback” provision.

The house and outbuildings are on two (2) individual parcels and the remaining seven (7) parcels are farm ground. The CSR on the land is 72. David Passmore prepared two appraisals on the farmland. When Mr. Passmore performed his first appraisal, the market on farm land was very high, in fact agricultural land was at an all-time high in the 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2022. Mr. Passmore indicated that the demand remains high. Mr. Passmore valued the 226.66 acres of farmland at \$4,080,000.00 and the two other parcels totaling 2.95 acres, inclusive of the house and the outbuildings, at \$280,000.00. This valuation is lower than the value he established in the fall of 2022 due to the values tapering off and interest rates elevating. The adjustment to the house and outbuildings values were close but the farmland was reduced by about \$120,000.00. Mr. Passmore indicated that the seven (7) parcels that comprise the farmland, could be sold as individual parcels, but as to value, a discount would be necessary as the whole is worth more than the individual parcels.

Jammie Howard also appraised the property in 2018 and assigned \$10,000.00 per acre for \$2,471,700.00 total appraised value. The income approach places the total at a slightly higher value of \$2,811,200.00. Mr. Howard’s appraisal is of course slightly older and was performed at the time of the sale from Respondent’s family to him. Mr. Howard indicated the residence was found to be appealable in the current market. He found the highest and best use of the property is farmland. The house (\$135,023.00), grain (\$14,400.00) and machine shed (\$36,000.00) facilities added the most value to the analysis; some buildings did not add much to the value due to age and condition.

By agreement, the farm land, the farm machinery, the outbuildings, the residence and all its contents are being awarded to the Respondent. Also by agreement, the Respondent is

assuming all of the debt associated with the two land contracts and the farming operation. The Court has prepared a balance sheet with the asset and debt assignment. The Petitioner is receiving **\$64,489.00** in assets and **\$10,136.00** in debts for a total net value of **\$54,353.00**. The Respondent is receiving **\$953,506.00** in assets and **\$610,884.00** in debts for a total net value of **\$342,622.00**.

The Respondent made the first payment of \$17,494.72 on the land contract before the parties were married<sup>2</sup>. Once married, the parties made a total of \$200,150.00 until they separated in 2021. Since separation the payments have been made entirely by the Respondent. The Petitioner has controlled here entire income and as indicated, received \$70,000.00 from the Respondent pursuant to the Court's January 19, 2023 order.

The Court reviewed the parties' tax filings for the farm to review the use of depreciation and the itemizations for expenses. The records show the following:

	2019	2020	2021
Livestock sales	\$265,923	\$167,406	\$328,110
Ag payments	\$9,013	\$57,653	\$3,698
Total expenses	\$302,943 depreciation (\$98,000)	\$259,608 depreciation (\$75,200)	\$367,772 depreciation (\$10,635)
Income	\$92,476	\$44,202	\$42,532
Net loss	<b>-\$2,973</b>	<b>-\$29,949</b>	<b>-\$11,650</b>

Nothing is static. Due to the fact that the Turnis brothers do not own but instead use some of the farm equipment, the depreciation on the parties' schedules changes. The expenses for the cattle can be very high. The income shown in 2020 and 2021 is from Petitioner's W-2 earnings. Had the marriage been longer, the parties' farming practices would be more evident given more years to analyze. It is not hard to see why the banks refused a loan without a co-signor and/or substantial collateral.

The Court has reviewed the entirety of the exhibits produced at trial and has taken into consideration all of the testimony, giving great weight to the Respondent's family's farm practices and the banking institution's assessment. The lender, Brian Daly from Fidelity Bank, indicated that the farm liens, the present operating note and Respondent's lack of collateral were factors used to determine Respondent is not a good risk for lending at this time. The "clawback" provision in the contracts is also a major concern for the assessment of risk. For purposes of review, the land has no value to the bank since the deeds are all in the name of the Turnis Farms Company.

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<sup>2</sup> There was also a \$300,000 payment made but that money was from a loan that is included in the debt distribution herein.

The Turnis family is made up of four children whom are all adults. In 2018, Mr. and Mrs. Michael Turnis made a decision to move to Cascade and turn the reins of the farming operation over to their sons Alan and David. All of the financial decisions were made to plan their estate issues and to support their sons making a living on the farm. Contracts that were made for Alan and David are similar, including the “clawback” provisions. Mr. and Mrs. Turnis intended that their efforts would keep the ground in the Turnis family and it would eventually be a century farm. Coming out of college, Respondent would not have been able to farm if the purchase prices were fair market values. Mr. and Mrs. Turnis gifted the difference to Respondent to achieve their goals and to secure their sons’ futures on the farm. The remainder of their assets will go to their daughters upon death: Alan and David have received all Mr. and Mrs. Turnis intend for them to have as inheritance.

The Court analyzed the circumstances herein with an intent to be fair and equitable to both parties, recognizing their marital contributions, and to ensure that the farming operation will continue, as this is Respondent’s sole income. The Petitioner on the other hand has very secured employment and she will walk away from this marriage with very little debt. Given what she will receive as an equitable distribution, she may choose to pay off all of her debt where Respondent will be assigned more.

### CONCLUSIONS OF LAW

**JURISDICTION:** The Court has jurisdiction of the parties and the marital res concerned herein.

**PROPERTY DIVISION:** Upon the entry of a decree for dissolution of marriage, the Court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering the following: the length of the marriage, the property brought to the marriage by each party, the contribution of each party to the marriage, and the earning capacity of each party. A mathematical exactness is not necessary when dividing the parties’ assets. See *In Re Marriage of Andersen*, 243 N.W.2d 562, 564 (Iowa 1976) and *Iowa Code Chapter 598.21*.

“The district court’s first task [i]s to identify and value all the assets subject to division. *In re Marriage of McDermott*, 827 N.W.2d 671, 678 (Iowa 2013)(citations omitted). To identify divisible property, the district court looks for all marital assets that exist at the time of the divorce, with the *exception of gifts and inheritances* to one spouse. *Id.* (*emphasis added*); see also Iowa Code § 598.21(6). Premarital property may be included in the divisible estate. *Id.* “The district court may assign varying weight to premarital property, but should not automatically award it to the spouse who owned the property prior to the marriage.” *Id.* citing *In re Marriage of Sullins*, 715 N.W.2d 242, 247 (Iowa 2006).

Other factors for consideration include the length of the marriage, contributions of each party to the marriage, the age and health of the parties, each party's earning capacity, and any other factor the court may determine to be relevant to any given case. *In re Marriage of Fennelly and Breckenfelder*, 737 N.W.2d 97, 102 (Iowa 2007); and Iowa Code § 598.21(1).

Respondent has no intention of selling the farm. His stated future plans are to continue on as the third-generation owner and operator and achieve the distinction of being a century farm. The courts have previously found that public policy favors preserving family farm operations:

“We have previously recognized the reasonableness of a trial court awarding a farm to the spouse who operated it and in fixing the awards and schedule of payments to the other spouse without reaching *equality* so the farmer-spouse might retain ownership of the farm.”

*McDermott*, 827 N.W.2d at 683 (citations omitted). Respondent's intention is evident not only in his testimony, but also in the contracts executed with his parents and uncle and aunt as set forth in the “clawback” provisions. The Turnis Farms Company does not foresee a division of holdings or an end to the present status of operation.

Petitioner on the other hand, has found a passion in the banking industry. While testifying about her role in the lending industry, she showed exuberance and excitement. She has worked full-time at the bank for the entirety of the marriage. She testified she also assisted with farming operations including caring for the animals, providing meals, driving equipment, and handling the financial end of the operation. The Respondent refuted this. The Court recognizes the different roles the parties played but does find that the majority of the farming was performed by Respondent.

When the parties married, their intention was to expand the farming operation by purchasing more land. Their intention was also to be operating the farm as a married couple. It was no one's vision that the marriage would cease so early. Petitioner of course, will not be operating a farm now that the parties have separated. She did not testify about any desire to return to a life on the farm. Her income will come from her career at the bank. Respondent's income will come entirely from the farm, and as shown from the tax records, vary on a yearly basis. His earnings will also be dependent on grain prices, cattle prices, corn and hay values, and among other things but most significantly, the weather.

Taxes are a huge concern in the evaluation of the equalization payment. The parties filed individual returns in 2018. They filed jointly in 2019 and 2020. They filed individual for 2021 and Respondent has not filed 2022. As indicated, there is a tax obligation for 2020 that will be assumed by Respondent. If there is any necessity to sell any of the parcels, there will be a tax

consequence. Additionally, there will be a loss due to the “clawback” provision that will in essence reduce Respondent’s interest in the farm to what he has paid on the contractual obligations to his family.

What is most persuasive to the Court, as the Respondent pointed out, is the intent of the donors (Turnis family members) regarding the farm operation. In determining whether gifted property is divisible as marital property, there are two controlling factors: (1) intent of donor, and (2) circumstances surrounding inheritance or gift. *In re Marriage of Liebich*, 547 N.W.2d 844, 850 (Iowa Ct. Ap. 1996); *In re Marriage of Wertz*, 492 N.W.2d 711, 714 (Iowa Ct. App. 1992).

The intent was to make decisions for the benefit of estate planning and for Respondent and his brother to continue the management of the farm. When the final payment is made and the deed is transferred, the Respondent will become the fee simple owner, not subject to claims by his family. The gift of the excess value of the farm must be honored.

“[A]n equitable property division of the appreciated property should be a function of the tangible contributions of each party and not the mere existence of the marital relationship.” *In re Marriage of Hansen*, 2018 WL 4922992 (unpublished decision), citing *In re Marriage of Lattig*, 318 N.W.2d 811, 815 (Iowa 1982). During the short term of this marriage, the parties did not make any improvements to the property that have not been considered herein. The most significant enhancement to the property is the solar panels, which have not been paid for at this time and will become a financial obligation to the Respondent. The farm is what it is as a result of 90 years of labor and effort by the Turnis family members, past and present. Given the case law and the application of *Iowa Code sec. 598.21* enumerated considerations, the equitable share of the farmland is based on the marital payments made to this point in time. There was no dispute that Respondent made pre-marital payments toward the contracts. During the marriage, the parties made payment of \$200,150.00. Petitioner’s share of the interest attributable to her and the Respondent is therefore \$100,075.00.

### DECREE OF DISSOLUTION OF MARRIAGE

**A. MARRIAGE:** The bonds of matrimony between Carolyn Trumm and David Turnis are hereby extinguished and held for naught. The parties are returned to the status of single individuals.

**B. ASSETS AND LIABILITIES:** Each of the parties is hereby awarded all personal items that each currently has in their possession. The balance sheet attached hereto as Court’s Attachment “A” divides and assigns assets and debts. Respondent shall make every effort to remove the Petitioner’s name from any, if any exist, financial obligations under which she is encumbered so as not to hinder her ability to finance her own home moving forward. This provision shall be accomplished within 90 days from the date of the entry of this decree.



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**Real Estate:** The Respondent is awarded parcels 2016300002, 2017400006, 021100002, 2021100003, 2021100005, 2021100006, 2020200003, 2020200006, and 2020200007, the real estate located at 19008 Rt. 151, Bernard, Dubuque County, Iowa, legally described as:

All that part of the East one-half of the North East  $\frac{1}{4}$ , and the North West  $\frac{1}{4}$  of the North East  $\frac{1}{4}$ , lying south of Highway 151, in Section 20, Township 87 North, Range 1 East of the 5<sup>th</sup> P.M., except the portions Condemned by the State of Iowa, recorded in Book of Lands #65, page 466, et seq., records of Dubuque County,

And

The South One-half of the North West  $\frac{1}{4}$ , Lot 2 of Lot 2 of the North East  $\frac{1}{4}$  of the North West  $\frac{1}{4}$ , and Lot 2 of the North West  $\frac{1}{4}$  of the North West  $\frac{1}{4}$ , in Section 21; Lot 4 of the South West  $\frac{1}{4}$ , Lot 2 of Lot 1 of the South West  $\frac{1}{4}$ , and a three-cornered parcel of land situated in and being a part of Lot 1 of Lot 1 of the South West  $\frac{1}{4}$ , described by metes and bounds in Warranty Deed, Instrument #4420-77, in Section 16; all in Township 87 North,

Range 1 East of the 5<sup>th</sup> P.M., in Dubuque County, Iowa, according to Government Survey and the recorded Plats of said respective Subdivisions, EXCEPT portions thereof conveyed to the State of Iowa by Warranty Deed recorded in Books of Lands #64, page 284 and portions thereof Condemned by State of Iowa in Books of Lands #66, page 337 et. seq., records of Dubuque County, Iowa.

The Petitioner shall execute a Quit Claim Deed in favor of the Respondent within 15 days of the date of this decree. If the Petitioner fails to execute the Quit Claim Deed, this decree will operate to fully divest the Petitioner of all right, title and interest to the property.

Pursuant to *Iowa Code sec. 598.21(3)*, if necessary, given the land contracts, upon payment by the party awarded the real estate of the required recording cost to the Clerk's office, the Clerk of Court shall issue a certificate under Chapter 558 of the Code relative to these parcels of real estate and immediately deliver the certificate for recording to the County Recorder of the county in which this real estate is located. Any recording fees or costs assessed for the certificate and paid through the Clerk's office shall be included as part of the court costs. The County Recorder shall, upon payment of any required recording fees or costs, deliver the certificate to the County Auditor as provided in Iowa Code sec. 558.58.

**C. EQUILIZATION PAYMENT:** The Petitioner is awarded judgment against the Respondent in the amount of **\$144,134.00** as an equalization payment. The Respondent shall pay any outstanding obligation owed under the Court's January 19, 2023, order so that Petitioner is paid the entire \$70,000.00 no later than September 15, 2023. A satisfaction for the sum owed shall be filed with the Court immediately upon receipt of the entire balance owed. The parties may re-assign the Fidelity accounts if they desire as the award in Attachment "A" is different than the parties' pre-trial stipulation. If they do so, they must also alter the value of the judgment by the adjustment to the ownership of the Fidelity accounts. The Respondent shall make



payments toward the equalization judgment as follows: \$50,000.00 by December 31, 2023; thereafter, he shall pay \$2,500.00 on a monthly basis commencing January 5, 2024, and continuing thereafter until paid in full. The judgment shall not incur interest as long as the payments are timely made. If three consecutive payments are made late, the remaining balance shall accumulate interest at the current statutory rate. There is no penalty for pre-payment of the entire balance if the Respondent is able to do so.

**D. TAX FILINGS:** Respondent shall file 2022 tax returns as married filing separately. He shall be responsible for all tax obligations owed and shall hold the Petitioner harmless therefore. He is entitled to retain any refund, if any, without any claim by the Petitioner. The parties shall file individual returns for 2023.

**E. ALIMONY:** Neither party is awarded alimony.

**F. COURT COSTS AND ATTORNEY FEES:** Given the age of the parties, the earning capacity of the parties, the money awarded to the Petitioner during the pendency of this action, and the division of property, each is responsible for their own attorney's fees.

**G. ANNULMENT:** Although the Court cannot order the Respondent to cooperate with the filing of a Petition for Annulment of the marriage through the Catholic Church, he did indicate that he would do so.

The costs of this action are divided equally.

## ATTACHMENT 'A'

ASSET	PETITIONER	RESPONDENT
House		207,511*
Farm		200,150
2011 Chevy Silverado		20,000
2002 Chevy trailblazer		2,000
2018 Ford Edge	14,500	
Farm Bureau #863U	X	
Farm Bureau #854U		214
Crop Hedging acct		7,533
TD Ameritrade		1,313
Fidelity Money Purchase Plan	10,171	
Fidelity ESOP	20,548	
Fidelity - 4606	1,714	
Fidelity – 7860	15,293	
Fidelity – 0912	200	
Fidelity - 7378	1,063	
Fidelity – 7394	1,000	
Farm equipment – pre-marital		X
Farm equipment – marital		117,000
2022 Corn 7,000 bushels		42,000
2022 Corn 5,000 bushels		35,050
2022 beans		28,000
Corn silage		2,775
Hay		9,350
Pre-paid Farm Expenses		28,485
Beef calves (10)		4,000
Beef Feeders & steers (60)		108,000
Bulls		3,125
Stock cows		42,000
Solar panels		95,000
<b>TOTAL ASSETS</b>	<b>64,489</b>	<b>953,506</b>

DEBTS		
FSA – down payment		283,183
USDA – corn #0038		34,149
USDA – beans #0039		22,481
Fidelity – solar panel #9739		28,207
Fidelity - semi #0474		24,342

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Fidelity – cattle/grain #0790		
Compeer operating note		205,000
Fidelity – Ford Edge	8,648	
Trumm loan	X	
Discover #8649	1,488	
Capital One #8236		3,110
2019 Tax Debt		10,412
<b>TOTAL DEBT</b>	<b>10,136</b>	<b>610,884</b>
Total net worth	54,353	342,622
<b>EQUALIZATION</b>	<b>\$144,134.00</b>	

**\*The figure is the average of the two appraisals, acknowledging the possible market increase of the value from 2018 to 2023.**



State of Iowa Courts

**Case Number**  
CDDM016781  
**Type:**

**Case Title**  
CAROLYN TURNIS VS DAVID TURNIS  
COURT DECREE - DISSOLUTION OF MARRIAGE

So Ordered

A handwritten signature in blue ink that reads "Monica Zrinyi Ackley".

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Monica Zrinyi Ackley, District Court Judge  
First Judicial District of Iowa

Electronically signed on 2023-08-31 23:18:34